

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
James Cable Partners, L.P.)	File No. EB-02-TS-239
)	
Operator of Cable Systems in the States of:)	
)	
Alabama, Colorado, Florida, Georgia, Louisiana,)	
Oklahoma, Texas, Wyoming)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: September 27, 2002

Released: October 4, 2002

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant James Cable Partners, L.P. ("James Cable") temporary, 12-month waivers of Section 11.11(a) of the Commission's Rules ("Rules") for five cable television systems and temporary, 36-month waivers of Section 11.11(a) of the Rules for 33 cable television systems in the eight above-captioned states as listed in Attachment A. Also in this Order, we deny James Cable waivers of Section 11.11(a) of the Rules for seven cable television systems in six of the above-captioned states as listed in Attachment A. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On June 3, 2002, James Cable filed a request for a permanent waiver or a five-year temporary waiver of Section 11.11(a) for 45 small, rural cable systems in the eight captioned states. James Cable states that these cable systems serve less than 5,000 subscribers. In particular, James Cable indicates that 33 cable systems serve between 10 and 791 subscribers, five cable systems serve between 1,165 and 1,656 subscribers, and seven cable systems serve between 2,776 and 4,939 subscribers. Based on price quotes provided by EAS equipment manufacturers, James Cable estimates that it would cost approximately \$8,000 to install EAS equipment at each of these systems for a total cost of \$350,000. James Cable asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, James Cable submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, James Cable notes that its subscribers currently have access to national EAS messages on a substantial number of all programmed channels. James Cable also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by James Cable, we decline to grant James Cable a permanent waiver of Section 11.11(a). Additionally, we conclude that temporary waivers of Section 11.11(a) for James Cable's seven largest cable systems in

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

Almond, Alabama; Stalvey, Florida; Hawkinsville, Georgia; Durant, Oklahoma; Decatur, Texas; Jacksboro, Texas; and Torrington, Wyoming are not warranted.

5. However, the estimated \$8,000 headend cost to install EAS equipment at the 38 remaining cable systems could impose a financial hardship on James Cable. Therefore, we conclude that temporary, 12-month waivers of Section 11.11(a) for five of the cable systems in Attachment A and temporary, 36-month waivers of Section 11.11(a) for 33 of the cable systems in Attachment A are warranted⁹

6. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

7. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² James Cable Partners, L.P. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2003 for five cable television systems listed in Attachment A and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for 33 cable television systems listed in Attachment A.

8. **IT IS FURTHER ORDERED** that James Cable Partners, L.P. place a copy of this waiver in its system files.

9. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for James Cable Partners, L.P., James F. Ireland, Esq., Cole, Raywid & Braverman, LLP, 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

⁹ The 12-month waiver will extend from October 1, 2002, until October 1, 2003, and the 36-month waiver will extend from October 1, 2002 until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

James Cable Partners, L.P.

Cable Systems:**Waivers:****Alabama**

Almond, Alabama
Cleburne Co., Alabama
Guin, Alabama
Hackleburg, Alabama
Phil Campbell, Alabama
Sulligent, Alabama
Vernon, Alabama

No Waiver Granted.
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005

Colorado

Akron, Colorado
Otis, Colorado
Yuma, Colorado

Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005

Florida

Hawthorne, Florida
Orange Lake, Florida
Stalvey, Florida
Steinhatchee, Florida

Granted Until October 1, 2005
Granted Until October 1, 2005
No Waiver Granted
Granted Until October 1, 2005

Georgia

Crawford., Georgia
Crawfordville, Georgia
Hawkinsville, Georgia
Pinehurst, Georgia
Unadilla., Georgia

Granted Until October 1, 2005
Granted Until October 1, 2005
No Waiver Granted
Granted Until October 1, 2005
Granted Until October 1, 2005

Louisiana

Lake Arthur, Louisiana
Oberlin, Louisiana

Granted Until October 1, 2003
Granted Until October 1, 2003

Oklahoma

Achille, Oklahoma
Atoka, Oklahoma
Caddo, Oklahoma
Durant, Oklahoma
Kingston, Oklahoma
Stringtown, Oklahoma
Tishomingo, Oklahoma
Wampanucka, Oklahoma

Granted Until October 1, 2005
Granted Until October 1, 2003
Granted Until October 1, 2003
No Waiver Granted
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005

Cable Systems:**Texas**

Decatur, Texas
Newton, Texas
Huntington, Texas
Jacksboro, Texas
Kirbyville, Texas
Springtown, Texas
Sand Point, Texas

Wyoming

Elk Mountain, Wyoming
Encampment, Wyoming
Glendo, Wyoming
Glenrock, Wyoming
Hanna, Wyoming
Lusk, Wyoming
Saratoga, Wyoming
Torrington, Wyoming
Wheatland, Wyoming

Waivers:

No Waiver Granted
Granted Until October 1, 2005
Granted Until October 1, 2005
No Waiver Granted
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005

Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
Granted Until October 1, 2005
No Waiver Granted
Granted Until October 1, 2003